

UNITED STATES DISTRICT COURT

OCT 23 2015

for the
 District of New Mexico

MATTHEW J. DYKMAN
 CLERK

In the Matter of the Search of
*(Briefly describe the property to be searched
 or identify the person by name and address)*

LYMON, Davon
 SSN: xxx-xx-3127

Case No.

Kmr 657

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

The person known as Davon LYMON with Date of Birth: 12/20/1980, SSN: 012-62-3127

located in the _____ District of _____ New Mexico _____, there is now concealed *(identify the person or describe the property to be seized)*:

DNA evidence; to wit; Buccal cell swab, sufficient for DNA analysis, which would be material evidence in a criminal prosecution.

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☒ evidence of a crime;
☒ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

<i>Code Section</i>	<i>Offense Description</i>
Title 18 USC 922(g)(1)	Convicted Felon in Possession of a Firearm

The application is based on these facts:

See attached affidavit

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



Applicant's signature


Derek Wright, Task Force Officer, ATF

Printed name and title

Sworn to before me and signed in my presence.

Date: 10/23/2015

City and state: Albuquerque, New Mexico



Judge's signature

Laura Fashing, U.S. Magistrate
 Printed name and title

Judge

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United States of America

V.

LYMON, Davon

SSN: 3127

1. Derek Wright, a Task Force Officer with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), being duly sworn, deposes and states:
2. Your Affiant is a full time salaried sworn law enforcement officer with the Albuquerque Police Department, and has been so for more than 9 years.
3. Approximately three of those years has been spent on the investigation of federal felony crimes. Part of your Affiant's duties for the past three years has included being a Task Force Officer for the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives.
4. In this capacity your Affiant routinely investigates violations of federal criminal statutes, to include violation of federal firearms laws, and has specifically investigated violations related to subjects who are found to be in possession of illegal and altered firearms. Your Affiant requests that an Arrest Warrant/Criminal Complaint be issued for the above named defendant based on the following information, which your Affiant believes to be true and accurate.
5. I am an investigative, or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510 (7), in that I am an officer of the United States who is empowered by law to conduct investigations and make arrests for the offenses enumerated in Titles 18 and 26, United States Code.
6. The statements contained in this affidavit are based, in part, on information provided by Special Agents and Task Force Officers of the ATF and other law enforcement officers; on conversations held with police officers; and on my background and experience as a Task Force Officer of the ATF.
7. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

PROBABLE CAUSE

8. On October 21, 2015, Albuquerque Police Officer D.W. was on patrol in the southeast area of the City of Albuquerque, County of Bernalillo, State of New Mexico. Officer

D.W. conducted a traffic stop on the motorcycle for a stolen license plate in the Walgreens parking lot at 10300 Central Ave SE, Albuquerque, New Mexico.

9. Officer D.W. approached the motorcycle which was operated by a male driver, later identified as Davon LYMON, and a female passenger who was not identified. Officer D.W. spoke with Davon LYMON and while doing so. Davon LYMON was not compliant with Officer D.W.'s orders. Officer D.W. attempted to detain Davon LYMON. Officer D.W. was able to get Davon LYMON's left wrist in handcuff restraints when Davon LYMON stated that his right shoulder was hurt. Officer D.W. attempted to gain compliance of Davon LYMON without success. Ofc. D. W. then reached forward in an attempt to utilize the other handcuff and secure it to the front handlebar of the motorcycle.
10. When Officer D.W. reached across Davon LYMON and attempted to handcuff him to the motorcycle handlebar, Davon LYMON removed a firearm and discharged six (6) .40 caliber rounds at Officer D.W. Officer D.W. was struck by numerous rounds to the body to include one (1) round which struck him in the face near his chin. Officer D.W. made a call for help and that shots had been fired. Davon LYMON ran from the scene to the north and into a neighborhood.
11. Responding officers rendered aide to Officer D.W. and established a perimeter around the location they believed Davon LYMON to have been in. Officer D.W. was transported to the University of New Mexico Hospital where hospital staff successfully revived him.
12. Law Enforcement located six (6) spent cartridge casings in the parking lot where Officer D.W. had been shot and identified them as three (3) rounds of Winchester brand .40 caliber ammunition and three (3) rounds of Perfecta brand .40 caliber ammunition.
13. The Albuquerque Police Department SWAT team, Bernalillo County Sheriff's Office SWAT team, as well as the New Mexico State Police SWAT teams responded and attempted to locate Davon LYMON. Albuquerque Police Department Air support assisted in this and observed a male subject running through yards and jumping fences. The SWAT team utilized Police Service Dogs and took Davon LYMON into custody hours later. Davon LYMON was found hiding in a shed at 120 Espejo NE, Albuquerque, New Mexico. When Davon LYMON was taken into custody he still had a handcuff on his left wrist.
14. Davon LYMON was transported to the Presbyterian Hospital and treated for injuries sustained through the canine apprehension.
15. Special Agents with the Bureau of Alcohol, Tobacco, Firearms and Explosives assisted New Mexico State Police officers in searching the area for the firearm. Law Enforcement personnel recovered the firearm in a vacant lot in the 100 block of Glorieta NE which is where Davon LYMON had fled towards. The firearm was identified as a Taurus, model

Millennium G2 PT-40, .40 caliber semiautomatic pistol bearing serial number SHN04335. The firearm was found to contain a magazine with multiple rounds of ammunition to include one (1) round of Perfecta brand ammunition in the chamber.

16. Your affiant determined that the Taurus, model Millennium G2 PT-40, .40 caliber semiautomatic pistol bearing serial number SHN04335 as well as all recovered ammunition was not manufactured in the state of New Mexico, therefore affecting interstate commerce.
17. Your affiant queried DAVON LYMON and found him to have two (2) previous felony convictions in cause numbers: D-117-CR-200001145 for the charge of Forgery and D-202-CR-200102659 for the charges of Voluntary Manslaughter, Aggravated Battery with a Deadly Weapon/Great Bodily Harm and Conspiracy to Commit Aggravated Battery with a Deadly Weapon/Great Bodily Harm.
18. Your affiant did not test fire the firearm as it is pending ballistics analysis; however, based the evidence, it is apparent the firearm functions and fires as designed.
19. Based on your affiant's training and experience as a law enforcement officer, your affiant is confident the firearm recovered in the 100 block of Glorieta NE, in Albuquerque, New Mexico was possessed and handled by Davon LYMON.
20. Furthermore, your affiant knows it is common for an individual's DNA to be transferred to items handled by that individual; in this case the item is a firearm. Based upon these facts, your affiant respectfully requests that a search warrant be issued for Davon LYMON, to collect a sample of buccal cells for forensic analysis and for use as evidence in court as your affiant opines there is probable cause to suggest Davon LYMON previously and unlawfully handled the above firearms.

Respectfully submitted,



Derek Wright
Task Force Officer
ATF

Subscribed and sworn to before me
on October 23, 2015:



UNITED STATES MAGISTRATE JUDGE